
CHARTER
UNITED STATES CUSTOMS AND BORDER PROTECTION
AND
THE NATIONAL TREASURY EMPLOYEES UNION
LABOR-MANAGEMENT FORUM

SECTION 1: PREAMBLE, MISSION & PRINCIPLES

A. Preamble

U.S. Customs and Border Protection (CBP) and the National Treasury Employees Union (NTEU) recognize that the primary resource of CBP is the knowledge, skill, wisdom and enthusiasm of its employees and that it is necessary to encourage their active involvement to best accomplish the CBP mission.

The mission of CBP is to secure the homeland by preventing the illegal entry of people and goods and facilitating legitimate travel and trade.

Executive Order (EO) 13522, Creating Labor-Management Forums to Improve Delivery of Government Services, became effective December 9, 2009. The stated purpose of the EO is to establish a cooperative and productive form of labor-management relations throughout the executive branch as a means of improving the effectiveness and efficiency of government operations.

In order to implement the improvement of government services through collaboration and productive labor relations, CBP and the National Treasury Employees' Union (NTEU) establish this charter for the CBP-NTEU Forum (Forum).

B. Labor-Management Forum Goals

The goals of the CBP-NTEU Forum are:

1. Improving the productivity and effectiveness of CBP with the involvement of employees.
2. Enhancing and improving the quality of work life for CBP employees.
3. Proactively identifying problems and solutions to better service CBP's mission.
4. Recognize, publicize and promote successes within CBP.

5. Exploring alternative methods for managing conflict and resolving problems.
6. Promoting collaborative and productive labor-management relations throughout CBP.
7. Provide guidance to lower level forums as appropriate to include recommendations for training on effective labor-management relations and cooperative problem solving.

C. Principles

The participants adopt the following guiding principles based on those recommended by the National Council:

- Labor-management forums should contribute positively to the performance of CBP;
- Labor-management forums should promote the economic and workplace interests of employees and managers;
- Labor-management forums should operate with a clear charter that grants the parties broad authority to develop solutions jointly on issues that fall outside the scope of bargaining;
- Employees and their union representatives should have pre-decisional involvement in all workplace matters to the fullest extent practicable, without regard to whether those matters are negotiable subjects of bargaining under 5 U.S.C. 7106;
- Management and union officials and participants in the forum should receive training on the requirements of the EO, the guiding principles, and tools and processes that could assist with problem-solving and conflict resolution;
- Labor-management forums should use skilled facilitators at appropriate times;
- Labor-management forums should set goals, measure performance, and communicate results;
- Managers and union representatives at all levels should be committed to making labor-management forums work, which means being personally engaged;
- In the spirit of the larger labor-management engagement process, the parties should take a collaborative approach to collective bargaining;

- Labor-management forums should be led by relevant decision makers and supported by appropriate staff; and,
- The parties will devote sufficient resources to the implementation of the EO.

SECTION 2: FORUM STRUCTURE AND FUNCTION

A. Forum Structure

The Forum shall be composed of the Commissioner of CBP or designee and the NTEU National President or designee and ten additional members: five appointed by CBP and five appointed by NTEU. The Commissioner of CBP or designee and the NTEU National President or designee will co-chair the Forum. Advisers and subject matter experts from CBP and NTEU may also be present.

B. General Principles

Forum Participants will treat each other with dignity and respect, and share their ideas, proposals, information and concerns with each other. Each participant is expected to participate as an equal partner in all discussions and activities associated with the Forum.

The Forum will use a “strive for consensus” decision-making model in all of its activities; that is the parties will work extraordinarily hard to reach a decision all participants can live with. Each participant has a responsibility to participate in the decision-making process and to support the group’s decision if consensus is reached. Agreements reached by members of the DHS Labor-Management Forum do not constitute a waiver of any right provided for by Title 5 USC Chapter 71. If no consensus is reached, the options for the Forum include seeking the services of a facilitator, forwarding the issue to a delegated working group, or determining that consensus is not going to occur. In the absence of agreement, the parties retain their rights under 5 USC Chapter 71.

The forum will provide guidance and options for training managers, supervisors, and union officials on collaboration and problem solving.

C. Work Groups

The Forum may, by mutual consent, establish workgroups to analyze specific problems **and** propose solutions. Absent mutual agreement by the Forum, a work group shall be composed of no more than eight members, i.e., four representatives from NTEU and four representatives from CBP.

Within 7-calendar days of the Forum agreeing to establish a work group, CBP will provide the qualifications necessary to participate in a specific work group. Within 7-calendar days of receipt of qualifications from CBP, NTEU will provide employee nominations.

The work groups' proposed solutions will be presented to the Forum for consideration.

Where CBP selects bargaining unit employees to serve on committees, work groups, or projects to analyze work processes or problems, and such work is not normally assigned to all employees in a given position or location, CBP will solicit from NTEU nominations of employees based on qualifications provided by CBP. CBP will select from the union nominations, absent just cause.

SECTION 3: MEETINGS

The co-chairs will be responsible for assuring that necessary preparations are made for upcoming meetings including developing and distributing agendas, meeting notifications, meeting summaries or minutes, and meeting logistics. The co-chairs will also be responsible for jointly communicating decisions made by the forum and monitoring steps taken to effectuate those decisions.

Meetings may be rotated between CBP Headquarters and NTEU National facilities. The time and date of meetings will be jointly set by the co-chairs.

The duration of meetings will be jointly determined by the co-chairs and will be based on the time estimated to work through the agenda not to exceed two working days.

At least twenty-one (21) calendar days prior to the scheduled date of the meeting, the parties will exchange anticipated agenda items. Matters not on the agenda can be discussed by mutual consent.

Agenda items will exclude individual grievances, Equal Employment Opportunity complaints, and unfair labor practice complaints.

Absent mutual agreement, meetings will require a quorum of not less than four (4) of the permanent members from each side, including the co-chairs or their designees.

For the first twelve months, the Forum will meet quarterly. Thereafter, the Forum will meet two times per calendar year.

The five (5) bargaining unit members of the Forum will receive official time for the meeting as well as time necessary to travel to and from the meeting. The Forum bargaining unit members will be reimbursed travel and per diem in accordance with the Federal Travel Regulations.

The parties are responsible for recording the minutes and agree to use a technician to take notes for the parties who will not be an official member of the Forum. At the first meeting, Forum members will determine the process by which the Forum approves the minutes prior to distribution to employees.

Action items will be summarized at the end of each meeting.

By mutual agreement by the co-chairs, Forum meetings may be facilitated. The parties agree to utilize the services of the Federal Mediation and Conciliation Service (FMCS) when a decision is made to use a facilitator. In the absence of a facilitator, meetings will be led by **the co-chairs**.

SECTION 4: COMMUNICATION

Minutes will be posted in electronic form in such a manner that employees may have access to them.

The parties will jointly communicate to CBP employees all Forum initiatives/projects and their results. However, this does not preclude NTEU from communicating to its members or CBP from communicating with supervisors/management officials when necessary to achieve certain Forum goals or with its employees when deemed appropriate.

SECTION 5: PRE-DECISIONAL INVOLVEMENT (PDI)

Pre-decisional involvement (PDI) means those activities where employees, through their elected exclusive representative, NTEU, are afforded by CBP management the opportunity to shape decisions which impact on the work the employees perform.

The Forum is responsible for reaching a common understanding on the structure of their pre-decisional involvement process and subjects appropriate for PDI. Upon reaching an understanding on PDI subjects and structure, the Forum will develop PDI guidance.

PDI does not waive management's statutory right to make decisions under 5 U.S.C. Section 7106, nor does it waive NTEU's right to engage in bargaining prior to implementation to the extent required by law.

CBP recognizes that bargaining unit employees represented by NTEU are an essential source of ideas and information about the realities of CBP. Their input generated through the Forum will assist management in making better informed decisions before making changes in working conditions that affect them.

It is the intent of the parties that collaboration will result in less formal bargaining and/or fewer issues that must be referred to the collective bargaining process.

The collaborative process is not intended to be co-management. CBP management is ultimately responsible for making final decisions once the Forum collaboration process is completed.

In order to be successful, it is critical that the parties:

- Have a common understanding of what PDI means and under what circumstances it is appropriate;
- Share a mutual appreciation of why it is in their best interest to engage in PDI;
- Have a similar expectation of the results they seek to obtain from PDI;
- Agree on what subjects are appropriate for PDI; and,
- Agree on what actions occur after PDI has concluded.

The following principles of PDI will be observed:

- The process begins early when ideas are forming;
- The participants have common expectations;
- Information is freely shared throughout the process and there is an understanding on confidentiality of the information and process;
- The participants use an appropriate problem-solving approach;
- The participants adopt a team approach to their actions;
- The participants demonstrate a high degree of commitment to the process and to achieving their shared expectations.

SECTION 6: GENERAL PROVISIONS

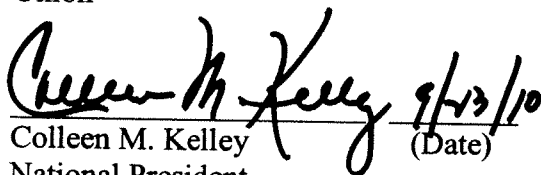
Nothing in this Agreement abrogates the parties' Collective Bargaining Agreement and Memoranda of Understanding.

This Agreement will be reviewed annually at the first Forum meeting of the calendar year to evaluate the effectiveness of the parties' collaboration unless the parties agree otherwise.

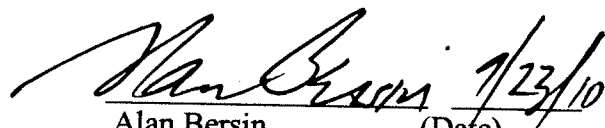
This Agreement becomes effective on the date it is fully executed.

IN WITNESS WHEREOF, the undersigned have duly executed this Forum Agreement as of the date first written above.

For the National Treasury Employees
Union


Colleen M. Kelley (Date)
National President
NTEU

For the U.S. Customs and Border
Protection


Alan Bersin (Date)
Commissioner
Customs and Border Protection